

DIVISION OF THE STATE ARCHITECT

PUBLIC HEARING

VOLUNTARY CERTIFIED ACCESS SPECIALIST (CASp) PROGRAM

July 13, 2007

1:00 p.m. - 4:00 p.m.

1102 Q Street, 3rd Floor, Conference Rooms 3A, B & C

Sacramento, California

P A R T I C I P A N T S

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DSA Staff

RODNEY HIGGINS, Senior Architect, Director, Voluntary
Certified Access Specialist Program

JENNIFER LEAL

MICHAEL MANKIN

ELIZABETH RANDOLPH

JIM VITALE, Associate Architect

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P R O C E E D I N G S

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(Time noted: 1:00 p.m.)

MR. HIGGINS: Okay. Well, on behalf of David Thorman, the State Architect, I'd like to welcome you all here to this public hearing, which was called and is now basically called to order. I want to welcome you each here. And first of all, I want to introduce myself. My name is Rod Higgins. I'm the Director for the Voluntary Certified Access Program that was set up under Statute 4459.5.9.

And so we're here today to receive comments, and that's really all we're here today to do. Pursuant to Government Code 11346.5(a)(17), the Division of the State Architect, DSA, has set this time and place for a public hearing to receive comment, either written or oral, from any interested persons regarding the Voluntary Certified Access Specialist Program being proposed by DSA for incorporation in California Code of Regulations, Title 21, Division 1, Chapter 1, Subchapter 2.5.

Again, both oral and written comments will be accepted at this time regarding the Notice to Proceed action published in the California Registry Notice, Register 2007, Volume 23-Z, Number Z07-0529-01 on June 8, 2007.

And also, I want to inform all of the audience here that we also have interested parties attending this

1 meeting via teleconference. We just heard one individual
2 come on-line.

3 Hello? Are you there, on-line?

4 (No response)

5 MR. HIGGINS: Okay. Well, if you hear a little
6 beep, that little beep, somebody should be on the line. So,
7 I will -- I will try to be sensitive to whoever's speaking,
8 and then, after they're through speaking, address the new
9 participant via the phone.

10 What I'm going to do -- so I guess I've already
11 gone through that. Just understand that we have people
12 coming -- calling in that cannot make it up here.

13 Again, my name is Rod Higgins. I want to
14 introduce the remainder of my staff.

15 Jim Vitale is Associate Architect here and a
16 member of the staff. Elizabeth Randolph has been assisting
17 us for about a year now. And Jennifer Leal is in the back.
18 She's also helping out today. We appreciate her time to
19 assist us.

20 And I was going to introduce to you another member
21 that has been not directly -- well, directly, indirectly --
22 involved in this program, and that's Michael Mankin. He'll
23 be joining us momentarily.

24 So, a couple other things I want to take care of,
25 housekeeping issues, before we get started. Everybody knows

1 about the restrooms. Restrooms are available right across
2 the aisle, the corridor.

3 And in case of an emergency, should there be an
4 emergency, we have posted around the room, near every door,
5 an emergency routing process. If you were going out that
6 door, you would turn to your right. There's a stairwell
7 right there. You would go down to the bottom and then meet
8 across the street, on the corner of 12th and Q. Over here,
9 I believe you're going that direction. So the arrows are
10 there, and in case we do have an emergency, please follow
11 those directions.

12 Okay. We are going to be taping this meeting, so
13 all your comments will be taped, and then a transcript will
14 be put together and available on our Website, as we have
15 that all taken care of.

16 The actual closing of the comment period, the
17 public comment period, is on July 23rd, Monday, July 23rd,
18 at the close of business, five o'clock. And then, at that
19 time, we will be taking all the comments that we've
20 received, reviewing them, and then responding to them
21 accordingly, as well as the comments that we receive today.

22 I want to also ask that we keep comments, your
23 comments, if you could -- because we're really not sure how
24 many people are going to be here -- it might be just us,
25 might be more than us -- but if we could start off, at

1 least, at five-minute periods for comments, that would be
2 greatly appreciated, and, you know, I'm sure, appreciated by
3 anybody else that also plans on speaking today.

4 Okay. And while I'm thinking of that, if you do
5 have a cell phone, you might want to take this opportunity
6 to turn them off or put them on vibrate. And that way, we
7 won't be interrupted, and you'll have every opportunity to
8 speak without any interruptions.

9 Okay. Also, we'd like to remind you that if you
10 are proposing to speak, that we try to keep comments --
11 repetitive comments down to a minimum. It does take up some
12 time. We want to be sensitive, and we are certainly
13 honoring all your comments, but if they become repetitious,
14 we just -- you know, saying the same thing over and over
15 again, and we're already taping it, so we will know that
16 that's what you're saying.

17 All right. Further comments, written comments,
18 will still be accepted till five o'clock on the 23rd of
19 July. So I just want to remind you of that. Okay?

20 All right. So, without ado, I guess, we will go
21 ahead with our first speaker.

22 We have Judy. If you'd like to either come up to
23 the podium, or you could go over to the table -- it's up to
24 you, either way -- I guess the podium would be the best.

25 And as you come up, what we'd like you to do --

1 and any time you wish to speak, please, before you say your
2 -- what you've got on your mind, give us your name and let
3 us make that, you know -- very clearly so we can have that
4 -- make sure that it winds up on the transcript -- all
5 right? -- and who you represent.

6 Thank you.

7 MS. HENN: Okay. Thank you.

8 Well, good afternoon. My name is Judy Henn. I am
9 the president of the Interior Design Coalition of
10 California. I have a short statement to read, and I'll -- I
11 have copies for the -- the board to have later.

12 The Coalition for Interior Design Accountability,
13 CIDA, evaluated the situation last year and decided it was
14 time to take a more proactive position. Our strategic
15 planning revealed that the interior design profession wants
16 to start the process of establishing a practice act which
17 uses a single exam as part of its criteria. The board of
18 directors and the membership of CIDA voted this year to
19 change our name to the Interior Design Coalition of
20 California, IDCC. This better supports our new direction.
21 It also continues the Coalition's clear goal of providing
22 consistent guidelines for the regulation of the profession
23 of interior design in California.

24 Thank you for hearing all the previous testimony
25 provided by the interior design community and including our

1 profession -- our profession in your regulations. This
2 gives the participants in the built environment the
3 opportunity to engage the services of qualified
4 professionals, such as interior designers, who work with
5 millions of square feet per year of accessibility issues in
6 California.

7 IDCC therefore agrees with your recommendation for
8 interior designers in the regulations for the CASp program.
9 This provides the opportunity for all qualified interior
10 designers to apply using the same criteria for testing and
11 qualifications.

12 IDCC strongly supports the program that will
13 benefit for creating well designed accessibility for the
14 public. The Coalition looks forward to the start of this
15 program and will assist any way to support this endeavor.
16 Thank you again for including interior designers in the list
17 of design professionals.

18 We will have a more detailed letter which we will
19 submit before the 23rd of this month, but I'd like to leave
20 copies of this statement with the board.

21 Thank you.

22 MR. HIGGINS: Thank you, Judy.

23 Apparently, we have someone on the phone.

24 MS. RANDOLPH: Hello?

25 MR. LONBERG: (Via teleconference) Yes. Jon

1 Lonberg, from Riverside.

2 MS. RANDOLPH: Jon Lonberg.

3 MR. HIGGINS: Good afternoon, Jon. How are you?

4 MR. LONBERG: (Via teleconference) I am doing
5 much better, thank you.

6 MR. HIGGINS: Very good. Very good. Well,
7 welcome. And we're just getting started here, so -- a
8 question to you. Are you going to have a -- wanting to have
9 a statement, a time for a comment?

10 MR. LONBERG: (Via teleconference) I probably
11 will, but I don't have a prepared one at this point.

12 MR. HIGGINS: Okay. Okay. Well, certainly we're
13 glad to have you. And as I-- there are a few speakers ahead
14 of you. And then, when we get through with those, I'll ask
15 you if you would like to make a comment then. If not,
16 that's fine. We could, you know, continue, move on, and you
17 can comment later if you wish.

18 MR. LONBERG: (Via teleconference) Yes. Thank
19 you.

20 MR. HIGGINS: Okay.

21 All right. The next speaker is -- well, I'm --
22 the next speaker would be Mark Smith.

23 We're going by number.

24 MR. SMITH: Thank you, Rod.

25 MR. HIGGINS: Welcome.

1 MR. SMITH: Hello, everybody. I just arrived in
2 and really didn't have too much of a chance to gather my
3 thoughts. But my name is Mark Smith. I'm employed by DSA,
4 work out of the Oakland Regional Office in access plan
5 review, looking at reviewing primarily public school and
6 university projects.

7 I guess what I want to speak to today is the
8 unexpectedly high cost of certification. And I know from
9 being involved with the program from the very beginning that
10 this is a change from fees that we sort of had planned to
11 charge in the earlier days of program development.

12 And I guess that there's no way that I can ask the
13 question and get the answer, but something happened in the
14 last six to twelve months to cause the fees to really
15 skyrocket, to the point where I consider them to be a
16 negative impact or a disincentive for people to become
17 certified under this program.

18 And not really thinking it through, but let me
19 just start with a point of analogy, with comparing with
20 professional licensing fees. I'm a licensed architect. It
21 costs me \$200 every two years to maintain that license, or
22 about \$100 a year. The cost of certification under this
23 program, I mean, once you get going, I think it's around --
24 more than \$300 a year, but the cost of the application and
25 taking the exam, one-time minimum, along with the initial

1 certification fee, I think, amounts to somewhere around
2 \$1,900, in that range.

3 MR. LONBERG: (Via teleconference) It's very hard
4 to hear the speaker.

5 MR. SMITH: Sorry, Jon. It's Mark.

6 I'm talking about the cost -- high cost of fees.

7 And so, by comparison, it's almost an order of
8 magnitude more to become certified under this program than
9 it is to maintain a license as a design professional.

10 And I guess the intention -- the legislative
11 intent of the program was to -- to have a -- probably a
12 large number of people become certified or prove their
13 competency. And my -- my feeling is that there will be a
14 large number of people who are competent to practice in the
15 state but who choose not to become certified because of its
16 cost.

17 And -- and I'd like to ask the question that -- if
18 you took the cost of certification, just say, at -- let me
19 round it up to \$2,000 -- and you cut it in half, was there
20 any feasibility study that would somehow project that more
21 than double the number of people who then choose to become
22 certified, if the certification fee was at, say, around
23 \$1,000? Or perhaps, more interesting, or more plausible
24 from my point of view, if the certification fee was cut to,
25 you know, a range of six or seven hundred dollars to become

1 certified, it would be likely that three times the number of
2 people would become -- choose to become certified under this
3 program that -- that would otherwise become certified with
4 the \$1,900 or \$2,000 cost of certification. And wouldn't
5 that have -- provide a better impact on furthering the cause
6 of accessibility in the State of California were we to lower
7 the certification fee and actually have more people become
8 certified?

9 Because, either way, we sort of realized a couple
10 years ago that -- am I -- am I over my limits or --

11 MR. HIGGINS: No.

12 MR. SMITH: We realized that -- if you're a -- if
13 you're a leading consultant in accessibility and recognized
14 by your -- let's say your clients and people that you come
15 in professional contact with, you're still going to become
16 -- you're still going to be an expert, whether or not you
17 choose to become certified. So what we'd really like to do
18 is grow this professional organization, and, hey, bring in
19 as many people who are -- who are competent and -- and get
20 them involving in advancing accessibility, in addition to
21 just providing their competency and then taking that back to
22 their professional work.

23 And that's it.

24 MR. HIGGINS: Thank you, Mark.

25 Turn that up a little bit.

1 Jon, are you -- is it easier for you to hear now?

2 MR. LONBERG: (Via teleconference) Pardon?

3 (Laughter)

4 MR. HIGGINS: Is it -- I guess that answered my
5 question.

6 Is it easier for you to hear now, or are you still
7 having -- are you still having a hard time?

8 MR. LONBERG: (Via teleconference) Yeah. It was
9 a little bit soft.

10 MR. HIGGINS: Okay.

11 MR. LONBERG: (Via teleconference) Speakers need
12 to be closer to a microphone.

13 MR. HIGGINS: Okay. Okay.

14 MR. ROCKWELL: (Via teleconference) Hello?

15 MR. HIGGINS: Hello.

16 MR. ROCKWELL: (Via teleconference) Hello.

17 MR. HIGGINS: Hello. Are you --

18 MR. ROCKWELL: (Via teleconference) This is Ben
19 Rockwell calling in for the conference.

20 MR. HIGGINS: Okay, Ben. Welcome to the -- to the
21 hearing.

22 MR. ROCKWELL: (Via teleconference) Yeah.

23 MR. HIGGINS: And we are in the process of taking
24 public comment. We have a couple ahead of you. Would you
25 -- are you planning to make a comment?

1 MR. ROCKWELL: (Via teleconference) Not right at
2 this moment. Maybe in about another fifteen, twenty
3 minutes, after I hear some of the comments.

4 MR. HIGGINS: Okay. Well, as we get through them,
5 then, we'll keep coming back to you. There's another -- Jon
6 Lonberg is on the phone along with you, so -- and then we
7 have a number of people in the audience here. So, again, we
8 want to welcome you and ask for your patience and look
9 forward to your comments.

10 MR. ROCKWELL: Okay. Thank you.

11 MR. HIGGINS: Uh-huh.

12 Do we have anyone else on the phone, other than
13 Ben and Jon?

14 (No response)

15 MR. HIGGINS: Okay. Okay, good.

16 All right. The next speaker that we have here is
17 Teresa --

18 MS. FAVUZZI: Yes.

19 MR. HIGGINS: -- Teresa Favuzzi.

20 MS. FAVUZZI: Yes.

21 MR. HIGGINS: Did I say it okay?

22 MS. FAVUZZI: Yeah, you said it just fine.

23 MR. HIGGINS: Good. Thank you.

24 MS. FAVUZZI: Thank you for this opportunity to
25 provide public comment. My name is Teresa Favuzzi, and I am

1 the Executive Director of the California Foundation for
2 Independent Living Centers. CFILC was the original sponsor
3 of the 2003 Senate Bill 262, so we have a very vested
4 interest in the CASp Program.

5 I want to start out by saying that we are -- our
6 members are very concerned at the slow movement towards
7 implementation of the CASp Program, and we are very
8 concerned and want to encourage that the Division of the
9 State Architect really take a proactive approach -- approach
10 to increased resources, both human and monetary, to
11 implement this program with full vigor and speed.

12 That being said, we do have some -- we do have
13 some comments on specific parts of the regulation.

14 Concern number one is related to Article 1,
15 "General Provisions," Section 113, "CASp Scope of Work." It
16 says, "Services rendered by a CASp upon request by a
17 facility owner may include the following." And we have a
18 concern that a large number of businesses and organizations
19 will seek the services of a CASp that will not actually be
20 the owners of the facility. So we ask that you broaden
21 that, that definition of who is actually going to seek
22 services from a CASp, and not limit it to facility owners,
23 because I think that will diminish our ability to do what
24 we're trying to do here.

25 Concern number two is related to Article 3,

1 "Certification Process," Section 131, "Candidate Eligibility
2 Application." It's under C, "three years of full-time
3 employment in a specialized area of disability access rights
4 conducting assessments of facilities to determine adequacy
5 related to specific needs for the disabled community."
6 Currently, we have a concern that there are actually many
7 access experts who are self-employed and working as
8 independent consultants. And we believe that there is a
9 flaw in using a term like "full-time employment" as a
10 requirement for those individuals.

11 And so, we are questioning how it is that you're
12 going to determine somebody's eligibility if they're an
13 independent consultant and not employed by -- by some sort
14 of employer, if they are self-employed. So we recommend
15 that you remove the full-time employment requirement.

16 But if you choose not to remove the full-time
17 employment requirement, then you must spell out accessible
18 means of proving what full-time employment from an
19 independent self-employed consultant would -- would qualify.
20 Does that make sense?

21 Because we don't want to -- we absolutely do not
22 want to create barriers for folks who are actually highly
23 qualified to do this work, and this we see as a significant
24 barrier.

25 In addition, we would -- a small thing in Article

1 3, Section 131, is that we would prefer the use of
2 "disability community" as opposed to "disabled community."
3 Minor, but not minor when it comes to language. And
4 obviously, that relates to the entire document, for
5 consistency.

6 And concern number three, Article 4, "Fees,"
7 Section 141, "Fees," it should not be surprising that we
8 have some strong concerns about the fee structure, and we
9 think it is a significant barrier to the original intent.
10 It's -- it's excessive and, we think, will be a barrier for
11 folks who are qualified to actually decide whether or not
12 they want to -- they want to go for certification. So we're
13 really asking you to rethink the fee structure. We
14 recommend -- we're actually clearly recommending that you
15 lower the fee structure.

16 If you choose not to lower the fee structure,
17 then, at the very least, we -- we recommend that you include
18 a fee waiver request for individuals who are low-income at
19 this time and who may be looking at the Certified Access
20 Specialist as a new profession.

21 And that is the -- the results of my comments.
22 Thank you very much. I appreciate it.

23 MR. HIGGINS: Okay. Thank you again, Teresa.

24 And seeing that there are actually no other
25 comment request forms here, I'm going to first ask Jon

1 Lonberg if he wanted to make a comment.

2 MR. LONBERG: (Via teleconference) I would echo
3 the comment regarding the fees. There has been discussion
4 among several of us who have, in fact, spent years doing
5 code evaluations. And the fee structure as presently
6 proposed would, in fact, present a hardship for several in
7 that category.

8 End of comment.

9 MR. HIGGINS: Okay, Jon. Thank you.

10 Ben, do you have a comment at this time, or would
11 you continue to want to wait?

12 MR. ROCKWELL: (Via teleconference) I will make a
13 comment at this time. I find the fee structure -- I agree
14 with Jon that some way to make it possible for those that
15 are on lower income that have been working for years, such
16 as Jon and others, in doing the evaluations, to be able to
17 do so without having financial hardship.

18 Number two, I am concerned about some of the
19 things that I've heard. I did not have time to read fully
20 through all the documentation that you have there, but one
21 of the concerns that I have, that I've heard expressed, is
22 the possibility of cutting attorneys' fees when they -- when
23 a problem is found after the building or businesses have
24 been checked for compliance, with following California and
25 federal regulations for accessibility, and people think that

1 they are fully compliant, because this makes it much more
2 difficult for persons with disabilities suffering the
3 discrimination, as would be described under the Jesse Unruh
4 Act and under the ADA.

5 And I want to make sure that we still have
6 complete access, to be able to either get full enforcement
7 of the access laws through the city, state, or through the
8 court system as is necessary to make sure that we have full
9 access to all businesses that are open to the public. And
10 this includes all services.

11 The end of my comment.

12 MR. HIGGINS: Thank you, Ben.

13 Just -- I'm just making some notes to myself here.

14 Okay. All right. Moving on, we do have -- while
15 you were talking, Ben, we got some other comment requests
16 from the audience here. And we do have another one from
17 Mark Smith.

18 So, Mark, you're on board here.

19 MR. SMITH: Okay. Once again, I'm Mark Smith,
20 from DSA Oakland Regional Office.

21 I have a run-on comment to my first set of
22 comments, related to the fees. And the comment relates to
23 supporting material that's in the Initial Statement of
24 Reasons regarding the fees. Under the -- well, I won't
25 read, but there's one paragraph speaking to the necessity of

1 establishing the fees, but it doesn't speak to the reasons
2 or rationale or process that was used in determining the
3 amount of the fees. And I would like to ask that the Final
4 Statement of Reasons include in it a -- some sort of a cost
5 justification of why the fees are so high, so not only
6 necessity -- not only it establishes the fact that we need
7 to charge fees, but will, in fact, set down as a matter of
8 record why these fees are so -- or will explain why these
9 fees are so high.

10 So, the other comment that I have relates to the
11 -- sort of the down side of becoming certified, which is
12 taking certification away. It relates to Sections 151 and
13 153, the grounds for removal of certification by suspension
14 of or denial of recertification.

15 Condition Number 3 under 151a) says, "The State
16 Architect has received a complaint regarding the work . . .
17 and has determined the work has not be performed to
18 generally accepted industry standards." The question I have
19 here relates to -- and it's a very important one -- is that
20 licensing has generally been regarded as a property right of
21 people. Once you've received a license, it's a property
22 right and cannot be taken away without due process of law.

23 Now, I understand that this is a certification
24 program, but it is a statutory certification program. So,
25 to a certain degree, you could -- you could consider the

1 certification that you receive as being a property right.

2 So I wanted -- I question how the State Architect
3 can actually remove that property right from somebody
4 without any kind of due process, without -- without actually
5 having a hearing or -- or a day in court, if you will,
6 before actually making that determination.

7 And to some extent, this is explained in Section
8 153, that might be mistitled, but -- it's titled "Filing an
9 Appeal." It says, "Prior to suspending certification" --
10 blah, blah, blah -- "the State Architect or Designee will
11 file and serve the CASp [person] with a written notice."
12 That doesn't sound like it's speaking to the appeal process.
13 It sounds like it's speaking to the original suspension or,
14 you know, the original action. So maybe just cleaning up
15 that language would be important to do, to distinguish what
16 happens before, as part of the due process that the state
17 has to follow before removing certification, as opposed to
18 what actually happens during a bona fide appeal process.
19 But my concern is that the state will follow due process
20 before they remove the property rights of people who have
21 already attained certification.

22 Can I make another comment?

23 MR. HIGGINS: Sure.

24 MR. SMITH: This is somewhat different, related in
25 a way. In Section 112, "Authority," "The State Architect is

1 responsible for determining the criteria for eligibility and
2 certification of individuals participating in this" program.
3 And we also heard, in Section 151, the State Architect or
4 his designee has the authority to remove certification.
5 It's been long argued in academic or maybe more theoretical
6 circles that the act of certification needs to have a
7 certain separation from the government community so it's not
8 -- the whole process is not impacted by the undue influence
9 of political processes.

10 And then I question what will happen -- what could
11 potentially happen to a program, were the person of the
12 State Architect to change in the future, who comes in with a
13 different political agenda, comes in with a different group
14 of people that he cares for and does not care for, and
15 perhaps can actually attack, in a way, either the
16 certification of somebody who's already certified or make
17 adjustments to the program that -- that affect certification
18 and, in fact, has been called for as being -- needed to be
19 protected and -- from undue influence in the future. But
20 I'd like to see that the Final Statement of Reasons address
21 how the -- how the program is protected from undue influence
22 by the State Architect or other people of the political
23 community.

24 Thank you.

25 MR. HIGGINS: Thank you, Mark.

1 Has someone new joined us on the phone?

2 (No response)

3 MR. HIGGINS: Okay. We still have Ben?

4 (No response)

5 MR. HIGGINS: Do we still have Jon?

6 MR. LONBERG: (Via teleconference) Yes.

7 MR. HIGGINS: Okay. Thank you, John.

8 All right. Well, there don't seem to be any other
9 comments received up here from the audience. What we might
10 want to do -- I kind of thought this may happen, but we
11 weren't sure -- is we might want to consider recessing this
12 hearing until we have some -- you know, either someone join
13 us further on the phone or we receive further comments from
14 those who haven't gotten here yet but plan on showing up, or
15 later.

16 And so, what we might want to entertain doing, or
17 what we'll entertain doing is recessing the meeting, which
18 would mean the tape would be turned off.

19 Jon, how do you feel about that as far as being a
20 participant on the phone?

21 MR. LONBERG: (Via teleconference) Yes. I don't
22 have any problem.

23 MR. HIGGINS: Do you want to stay on the phone, or
24 would you want to like call back later, or -- how do --

25 MR. LONBERG: (Via teleconference) I would prefer

1 to be able to listen in to the comments that are being made
2 from the audience.

3 MR. HIGGINS: Right, absolutely. And that's what
4 we want. If there are none right now and we suspend or
5 recess, there won't be any comments coming in until we, you
6 know, regain the actual meeting or begin the meeting again.
7 And I don't want to keep you just kind of --

8 MR. LONBERG: (Via teleconference) When do you
9 anticipate that that would occur?

10 MR. HIGGINS: I'm not really sure because it's up
11 to those here. You know, again, we are open for comment up
12 until four o'clock this afternoon. And if we, so far, have
13 received all of the comments, it's hard to say. I would
14 suggest possibly calling back -- maybe if we recess right
15 now, call back in about fifteen, twenty minutes.

16 MR. LONBERG: (Via teleconference) Okay.

17 MR. HIGGINS: Are you able to do that?

18 MR. LONBERG: (Via teleconference) Yes, I am.

19 MR. HIGGINS: Okay.

20 And, Ben, are -- you're not with us any longer.
21 Is that correct?

22 (No response)

23 MR. HIGGINS: Okay. All right.

24 Thanks, Jon. Call back in, say -- call back in
25 about ten minutes to two o'clock.

1 MR. LONBERG: (Via teleconference) Okay.

2 MR. HIGGINS: Thank you.

3 MR. LONBERG: (Via teleconference) Thank you.

4 MR. HIGGINS: All right. We'll recess and turn
5 off the tape, and then we'll reconvene at about ten -- or --
6 what did I say? -- ten minutes to two. Okay?

7 Okay.

8 (Thereupon, at 1:35 p.m., a recess was taken
9 until 2:00 p.m.)

10 MR. HIGGINS: -- or here presently, if there's
11 anyone here who would wish to make a comment, has filled out
12 a comment form. I mean, I'm at the point now where I'm
13 almost thinking you don't even have to do the comment form.

14 (Laughter)

15 MR. HIGGINS: Just let me know.

16 Yeah, I want to try to keep this as informal as we
17 can, yet we do have to follow certain protocol with regards
18 to public meetings. So I want to be sensitive to all those
19 who are participating here today, as well as those on the
20 phone with us.

21 So are there any -- are there any further
22 comments, or are there any more comments? I think we might
23 be --

24 MR. SMITH: Can I ask a question --

25 MR. HIGGINS: Well --

1 MR. SMITH: -- regarding the scope of work?

2 MR. HIGGINS: Well, this is -- this is -- yeah.
3 This is merely a meeting for comment. It is -- it is --
4 that's what the purpose of this meeting is. We will -- we
5 will accept comments. We're not set up to go back and forth
6 in that fashion. But if you do have a comment regarding
7 that area, you're -- by all means, come up and make your
8 comment.

9 Yeah, I -- that's a good point, Michael. My card
10 is available at the back table. And I'm certainly available
11 to -- and have been available for quite some time to those
12 who wish to call and have any questions at all on the
13 regulations. It has been a long process, and it's not over
14 till it's over. So we are absolutely available to receive
15 any opinions, comments, and so on.

16 Okay. Yes, Mark.

17 MR. SMITH: Do you want me to fill out a fill or
18 should I just come up?

19 MR. HIGGINS: Yeah. I mean, you know, come on --
20 come on up.

21 For the record -- and I -- well, of course you're
22 going to identify yourself again, so -- five minutes.

23 MR. SMITH: Sure. Once again, I'm Mark Smith,
24 from DSA Oakland.

25 I just noticed -- I'm kind of reading a little bit

1 more carefully now -- and I'm looking at the examination --
2 forgive me -- Section 135 speaks of taking the examination
3 and getting a passing score. The title paragraph says,
4 "Upon successful completion of the [exam], an individual
5 will receive [the certificate], which evidences successful
6 completion," and so forth. "This certification -- this
7 certification will be valid for a three year period."

8 I just want to point out as a technicality that
9 you should only receive the certificate after you've paid
10 your certification fee. So, becoming certified is kind of a
11 two-step process in the end; it's that you have to pass the
12 exam and you have to -- and you have to pay the
13 certification fee before you receive that. So, once you
14 pass the exam, you're -- you're sort of eligible to become
15 -- you know, you've advanced to candidacy, maybe, in a
16 matriculation kind of sense. But you really shouldn't be
17 certified and be considered that until you actually pay your
18 -- your fees. And that's kind of a technicality.

19 MR. HIGGINS: Thank you, Mark, for your comment.

20 Any others? Going once, going -- no, I'm kidding.

21 There's no rush. We've got two hours remaining.

22 (Pause)

23 MR. HIGGINS: I've got it.

24 MS. WILLIAMS: I want to thank everybody for
25 allowing us to be here today and make comments on this

1 incredibly important program that -- it has the potential
2 for improving access for Californians or it has also the
3 potential for defeating our access codes in California.

4 MR. HIGGINS: Could you just say your name?

5 MS. WILLIAMS: Oh, yes. I apologize. Yeah.

6 Laura Williams. I'm President of Californians for
7 Disability Rights. I live in Glendora, California.

8 And the first subject I would like to speak in is
9 on the auditing of the work that a Certified Access
10 Specialist does. And in some of the initial proposals and
11 legislation, it was required that a committee that included
12 people from the disability would be consulted, and that an
13 advisory committee would bring forth a lot of
14 recommendations. And from a lot of that work, there were
15 some oversight and auditing proposals that appear to no
16 longer be in this proposal. And I'm very concerned that we
17 don't have any kind of an automatic audit or a periodic
18 check of a person's work to make certain that it's not just
19 a fraudulent piece of work that is allowing someone to not
20 do the access work that they should be doing.

21 I would be very concerned about that, having been
22 the victim of access consultants that have told businesses
23 that, "Oh, you don't need to do that," and for specious
24 reasons. And I certainly would be very concerned that we
25 not foster more of that through this program.

1 Is it okay to go on to other topics here?

2 MR. HIGGINS: Sure.

3 MS. WILLIAMS: Okay. I know there is a great deal
4 of concern about the fees and the -- the high fees that are
5 being set, and I'm hoping some -- somebody can look at that,
6 to reduce them, to make it possible for people with low
7 income can participate and become a Certified Access
8 Specialist.

9 And then, additionally, in the overall oversight
10 and the examination that is set forth that will certify the
11 specialist, I'm not seeing a lot in these short regulations
12 that speak to, other than a whole body of language, at what
13 level of experience and actually understanding what access
14 is about, because it's not good enough to get 90 percent of
15 the access things right in a building, if what's wrong is,
16 is you can't get to the door, or once you're in there, you
17 can't get to the service counter. And that's what we face
18 all the time.

19 And my -- my fear in the whole process of having
20 some form of a certified access process is, is that it makes
21 it more -- less civil rights and more regulation and code-
22 driven. And I'm very concerned that we not lose sight of
23 the fact that these are our civil rights, and for the entire
24 disability community. And I'm very concerned that there is
25 not in the regulations enough that addresses the civil

1 rights of individuals with disabilities and the potential
2 for discrimination when all of those are not met.

3 And I think that's all I have for right now.
4 Thank you very much.

5 MR. HIGGINS: Thank you very much, Laura.

6 Jim, would you help Ruthie? She's -- she's
7 tethered to the wall.

8 (Pause)

9 MS. GOLDKORN: Good afternoon. My name is Ruthie
10 Goldkorn. I live in Moreno Valley, which is in Riverside
11 County, in southern California. And I established No
12 Barriers Disabled Access Consulting and Advocacy Services,
13 let's see, almost thirteen years ago. A friend of mine who
14 is what is affectionately referred to as a facilitator,
15 meaning that she holds a contractor or business owner's hand
16 and walks them through the regulatory process from
17 submitting plans through the plan checks and through the
18 construction process and answers all the questions and deals
19 with the inspectors and so on -- basically is a babysitter
20 for -- for construction or opening of new businesses, and
21 she came to me and she said, "There is so much that is not
22 being done to ensure that businesses are operating and
23 opening in a compliant fashion for persons with
24 disabilities." So we opened No Barriers. She has since
25 moved to Utah, and I've been operating it as a sole person

1 for the last ten years.

2 And I have to say that on its face, the CASp
3 process appears to solve problems and answer questions. And
4 when you delve deeper, it seems to raise more questions than
5 it answers. And myself, as a person who began with an
6 initial training with the State Department of Rehabilitation
7 and has received multiple trainings through the Division of
8 the State Architect and through hearings and the Department
9 of Justice -- and I'm a member of the National Association
10 of ADA Coordinators, even though I'm not one, and attending
11 their programs and working closely with the feds and the
12 state -- and continuing education units, unofficial, because
13 we don't have CEU's like doctors do, but I'm continually
14 being updated, upgraded, and educated on what is and is not
15 the responsibility of a business and what is the right of a
16 person with a disability, this process. This program
17 appears on its face to eliminate persons such as myself,
18 because -- and I certainly do not -- and the IRS is going to
19 come after me one day and say this is a hobby, not a
20 business, because I would rather give the information away
21 than sell it, and I don't make a whole lot of money every
22 year, but I accomplish a lot through education and through
23 advocacy and making sure that businesses and government
24 agencies and entities understand -- and it's the usability
25 of facilities that is as critical as the accessibility. I

1 can access that door, but I sure as heck can't use it. It's
2 too heavy. And this issue is not addressed here. This
3 design professional scope does not include people like me.
4 The thousands of dollars it will cost to do this does not
5 include people like me.

6 And I think that the lack of enforcement of
7 existing statutes will not be solved by slapping a
8 certification in a frame on your wall, that you allegedly
9 know what it is that a business is supposed to do. And
10 again, as Ms. Williams had indicated, what about the people
11 who do the bidding of the Chamber of Commerce, or who do the
12 bidding of that corporation or that business and, quote-
13 unquote, certify that business? I can go there, I can take
14 pictures, and I can prove to you that, no, it's not. And
15 yet, what is my recourse as a person with a disability? I
16 don't necessarily have any. And what recourse do I have as
17 a person with a disability trained in disabled access
18 consulting and understanding at least the basics of
19 accessibility, of remedial barrier removal, and the
20 usability of facilities? I have none.

21 Enforcement at the lowest level, at the municipal
22 level, is what is most necessary. And I do not see how this
23 process is going to ensure that, just because my building
24 official will now have one of these slapped on his wall.
25 And my building official in Moreno Valley has been involved

1 in these -- in this whole process -- Gary Speck has been
2 involved. And Gary Speck was not the person I would ever
3 trust to make accessible facilities in Moreno Valley. He
4 has since learned and become very educated, and he and I can
5 now have conversations, and he gets it. I had to help him
6 through that process. But because he's got this
7 certification slapped on his wall, I no longer am considered
8 a kind of person who can help him understand his enforcement
9 responsibilities?

10 This is the biggest issue, the scope, the
11 classification and -- and label of design professional, the
12 fees, what the test consists of, what are the standards, and
13 what are those of us in the private sector able to
14 accomplish through this process.

15 Thank you.

16 MR. HIGGINS: Thank you, Ruthie.

17 Are there any others in the audience who have a
18 desire to make a -- a public comment at this time?

19 MR. PARTANSKY: My name is Joe Partansky. And for
20 five years, I was the staff for the County of Los Angeles
21 Health Services Department on creating a specialist category
22 for these workers. So I've been through some of these types
23 of issues before. At the same time, I've also been somebody
24 who's tried to help make the designated person in the
25 bureaucracy of Title 2 do his job, and have had some

1 successes as well as educating.

2 One of the situations that has happened is that --
3 one example, for example, I found what appeared to be a
4 design flaw in an access ramp in my City of Concord, and it
5 wasn't after my mother broke her nose hitting it in a day
6 that was -- a whole lot of outside noise, no contrast, no
7 bars -- and it looked like a snake in the middle of the
8 pathway of travel. And we won a lawsuit against the city
9 for medical coverage. But from the standpoint of that there
10 had been three or four other people, according to the
11 paramedics, who had also had an accident at that place --
12 they didn't even pull blood like my mother has -- but it was
13 an attempt to have an access ramp to a stage right in the
14 middle of the pathway of travel and snaking and what have
15 you, and no contrast.

16 As of last week, it was torn out. The access ramp
17 is right next to the stage. It has a -- has a -- what do
18 you call it? -- guide rail on it, and it's not in the
19 pathway of travel. But that took several years and heavy
20 persuasion and what have you.

21 So that's a -- that's the physical aspects. This
22 -- the story from the state Department of Architecture,
23 you'd expect to have the physical aspect kind of relevant,
24 and that's what it does. It has a focus.

25 But from the standpoint of program accessibility,

1 this -- skimming this through, I don't see any indication
2 that there's a cooperative effort, appreciation,
3 particularly from the standpoint of work products, if the
4 individual is asked to limit his work products and
5 activities to accessibility research, preparing
6 accessibility reports, conducting accessibility inspections.
7 Because of the nature of the mandate and because of the
8 nature of architecture, you're leaving out a very important
9 aspect, which is -- Ms. Williams' definition between
10 usability and accessibility -- I'm not quite sure those are
11 the exact categories, but the idea is that it's of no notice
12 that there's an ADA coordinator on -- available. The ADA
13 coordinator is located in the Public Works Department, where
14 the architects and activities might be, but has no control
15 over the way the police, social services, recreation treat
16 and encourage the use of government facilities and programs.
17 You're not going to get a comprehensive assessment unless
18 they're included in the accessibility reports, conducting
19 accessibility inspections, what have you.

20 And, of course, that's structural because of the
21 nature -- coming from the state Division of Architecture,
22 rather than a joint effort from state Rehab, which could be
23 there, as well as -- has any of you ever met the state ADA
24 coordinator for the State of California, who can facilitate
25 interdepartmental issues and activities? I -- when we tried

1 to ask where the ADA coordinator for the State of California
2 is and -- they found that there's somebody in personnel and
3 somebody in architecture, there's somebody in this -- but
4 there's no interrelated activity. And I've tried to do that
5 throughout the counties, and I've asked the California
6 League of Cities and the past president to please insist
7 that the cities and counties in California to identify ADA
8 coordinators, given the limitations of Title 2 as well as
9 their activities. And he and I ran across -- we were
10 together fifty years ago -- he's the expert in the League,
11 and there's still no questionnaire to identify in the annual
12 directory is there any ADA coordinator, and the person in
13 the state directory of the League of California Cities. But
14 there is one for a clerk. I ran for city clerk and licensed
15 -- and got at least 9,000 votes for the city. But if it
16 isn't there being asked for, it's not going to be produced.

17 An ADA coordinator for the national association,
18 while the woman who is the staff person for Oakland's
19 Disability Council is a member of it, I was told that I
20 couldn't be a member, and they wouldn't let me identify who
21 those people are who theoretically are in business, but
22 could also be in the public sector. So there's a little bit
23 of a disconnect, you might say, between the programmatic
24 issues and policies and kind of accountability and -- I
25 think that one could expect it, unfortunately, coming from

1 the state Division of Architecture. It looks otherwise
2 pretty good.

3 I've been told that one of the possibilities is
4 that -- I'm also a volunteer at the Independent Living
5 Center for Contra Costa County and have encouraged them to
6 consider to do so. I've asked -- I volunteered to drive
7 somebody up here today -- and they may be on the phone.

8 But the issues of errors and omissions or
9 accountability, liability insurance, and other types of
10 things, to the extent that the state doesn't share in that
11 or, out of the graces of their heart, include an umbrella
12 insurance policy for all the specialists -- which might be
13 kind of nice -- those -- that's an additional cost besides
14 the application fees and what have you.

15 Laura -- Ms. Williams made mention of a different
16 advisory body or some more accountability from the disabled
17 community, and I take her word for it that it's not in here.

18 Back in the '80's, I was active in the L.A. County
19 chapter of the predecessor to Californians for Disability
20 Rights, and we finally got the City of L.A. to allow a
21 volunteer group of disabled advocates to review plans on
22 occasion before they got final approval to sign off on the
23 acceptance. But then nothing's 100 percent. One of the
24 fellows who was disabled and was a photographer for the
25 redevelopment agency for Los Angeles, in the middle of a

1 rainstorm, took his wheelchair from driveway to driveway
2 because there was no access ramps where he'd been promised
3 where the assignment would be, got a ticket for jaywalking.
4 And they have somebody in modified, disabled housing getting
5 a ticket in the middle of a rainstorm for jaywalking in his
6 wheelchair, and with a contingent of a number of members of
7 the disabled community going with him to court. The judge
8 delayed hearing until five hours after the morning -- and I
9 was in front of him, and nobody else was -- and he said,
10 "Well, since you're disabled and you were given a ticket for
11 jaywalking, was your wheelchair manual-powered or electric?"
12 And he -- and he said it was electric, and they threw it out
13 because it was after the written ticket. Well -- and you
14 don't make changes with things being avoided issues.

15 With that, I'll say again, the -- it would be kind
16 of nice maybe to have a requirement that -- that -- not that
17 it has to be done electronically, but either an electronic
18 version and/or a -- a hard copy of the work product of this
19 particular specialist maybe should be required to be sent in
20 to a state office. And to the extent that it's available as
21 a public document, because it's doing it on behalf of the
22 disabled community, behalf of a public rights issue, and
23 then it could be available for review. I don't see any need
24 to have confidentiality or privacy situations involved with
25 that because -- or economic -- what's the term to use? --

1 well, proprietary information, privacy. Disclosure should
2 be the maximum. And I think that maybe that condition, that
3 that might help, however you do it, either voluntary or be
4 it somebody coming in and inspecting the records, what have
5 you, or, from somebody saying, you know, how does the
6 individual inspection involve the interface between Title 2
7 and Title 3.

8 If you ever had a chance to look around and notice
9 the notice for parking lots in California, the blue sign
10 that DMV specifies it will be, where's your car going to be
11 picked up, and towed by, and a phone number for the police,
12 what have you, almost 95 percent -- except this building --
13 I went outside and walked around because I got lost and came
14 to the wrong entrance -- this building, which is not
15 typical, has the name of the tow company and the name of the
16 police department. But most of those notices aren't there.
17 And that's a responsibility of, I'm sure, a condition of
18 occupancy, not an ADA specialist necessarily, but of the
19 building department's sign-off for construction,
20 renovations, what have you.

21 And so, to the extent that the state Division of
22 Architecture isn't going to go down and basically do that
23 city and county check-off, there needs to be a chance for
24 somebody to say, "Hey, but it has been handled in
25 cooperation and/or interface between the local building

1 department certification, ADA coordinator, and the private
2 company or retail establishment, with the chamber of
3 commerce."

4 I had an example of a chamber of commerce who may,
5 one of these days, have a breakfast-luncheon discussion
6 about ADA, disability, as well as employment. He said that
7 some owner decided that he was going to put the ADA --
8 person with disability parking slots all in front of one
9 retail establishment in a fairly large place. And the rest
10 of them said, you know, "I feel that I'm being discriminated
11 against because all the disabled parking spaces are in front
12 of my one unit and there are none in appropriate areas for
13 the whole -- access for the whole parking lot." Well,
14 that's one retailer's standpoint. But just think of it. If
15 you had to roll or otherwise walk with a cane long
16 distances, wouldn't it be kind of nice to have an
17 appropriate spread for the -- for the parking spaces and
18 have cooperation? Sometimes you can go both ways and be an
19 activity.

20 So requiring that there be a disabled community or
21 joint or interdisciplinary or advisory body, that they have
22 access to the reports, because it's a requirement that
23 reports be sent up to this office or what have you, and then
24 a sense of humor about -- or maybe some guidance on how
25 there should be some appreciation of whatever these

1 specialists are, that there's a state Department of
2 Rehabilitation, and they have some mandates, along with the
3 ADA coordinators. That's why I'd include in-service
4 training as well as just to clarify the relationship between
5 the specialists and the state Department of Architecture and
6 the disabled community and the Department of Rehabilitation.

7 With that, I'll close. I'm Joe Partansky. I'm at
8 Accessjoep@yahoo.com. Thank you.

9 MR. HIGGINS: Thank you, Joe.

10 Are there any others here? Mr. Smith.

11 Jon, are you still with us?

12 MR. LONBERG: (Via teleconference) Yes, I am.

13 MR. HIGGINS: Okay.

14 MR. SMITH: Okay. I apologize. I feel like I'm
15 dominating this, but I have a lot to speak to, and some of
16 these things just come rushing back to me.

17 But I think what I want to do is tie together the
18 comments of three of the previous speakers, which all spoke
19 in different ways about the need or a lacking or discussing
20 standards of conduct as they relate to the work of access
21 specialists.

22 And it's true that earlier versions of the
23 proposed regulations did actually have an entire article
24 devoted to standards of conduct, and we actually had
25 envisioned a mechanism for self-auditing the program for --

1 allowing the program to develop and evolve standards of
2 conduct over time.

3 And reading the current version of the proposed
4 regulations, the only place I can really find reference to
5 that is in Section 151, when it's talking about the grounds
6 for certification suspension or removal of certification.
7 Condition Number 3 says, "The State Architect has received a
8 complaint regarding the work . . . and has determined the
9 work has not been performed to generally accepted industry
10 standards." And so, specifically, I question whether that
11 -- that -- that statement in Condition Number 3 has been
12 developed enough to really be effective, because if you ask
13 most people, almost anybody that's involved in
14 accessibility, "Where are the generally accepted industry
15 standards?," they're -- they're pretty much nonexistent.
16 And I would like to challenge or ask that the Final
17 Statement of Reasons describe or identify what the standards
18 of conduct that are going to be applied in determining
19 whether an access specialist has performed in a competent
20 manner or not.

21 But then that got me thinking back to the original
22 legislation, the original enabling statute, and -- which
23 does speak to standards of conduct. And I'm going to
24 paraphrase here, but it can be quoted more directly, but it
25 -- somewhere, it says that the State Architect may perform

1 audits of the work of Certified Access Specialists to
2 determine -- or it's -- and what I have written down here
3 is, "as deemed necessary to ensure the desired standard of
4 performance." Now, the -- in statute, it even says "may
5 perform audits." It certainly allows the implementing
6 agency the -- the option of not implementing that part of
7 the statute, so that maybe the program as it rolls out does
8 not have regulations regarding auditing.

9 But the second part of that statement in statute
10 says that there was a need to ensure the desired standard of
11 performance. And I would assert that this program still
12 needs to establish standards of performance for the work of
13 access specialists because I think everybody here, including
14 the original -- the legislators, envisioned this program
15 transcending the -- the needs and then checking it -- and
16 compliance with just the regulations involved with access
17 compliance to include program services, complaint
18 investigation, to make sure that we're actually -- the work
19 that we do ascribes or prevents or precludes discrimination
20 on the basis of the general constructs of discrimination,
21 and that without any standards of conduct, we don't know --
22 I just don't understand how the State Architect or his
23 designee could actually identify a standard of conduct that
24 says whether the access specialist is actually ascribing to
25 these areas of accessibility that really have no standards

1 of conduct right now.

2 And furthermore, in Section 153, it says that,
3 "Prior to suspending certification . . . the State Architect
4 . . . will . . . serve the CASp [person] with written notice
5 of the action. . . . The written notice shall include the
6 reasons for the action . . . provide a summary of the facts
7 and allegations." I would -- I ask that the regulations be
8 modified to include in this statement also, include what
9 statement of conduct has been violated, and really, to
10 require -- nail this down, because if we are going to
11 suspend people for a particular standard, we have to
12 identify what that standard is that's been broken. And I
13 challenge DSA to find and identify those standards of
14 practice as they exist in today's world.

15 MR. HIGGINS: Thank you, Mark.

16 Would you like to see a magic trick?

17 (Laughter)

18 MR. HIGGINS: Jon, are you -- you're still with
19 us, right?

20 MR. LONBERG: (Via teleconference) Yes, I am.

21 MR. HIGGINS: Great. Great. Have you anything
22 else to add?

23 MR. LONBERG: (Via teleconference) Well, I looked
24 over this proposed final document and have frequently
25 expressed my concern that this end product seems to stray

1 considerably from the documents that were produced by the
2 committee. I'm guessing these were produced
3 administratively rather than collaboratively by the
4 committee. I've heard some comments from people, that they
5 felt some of the important features in earlier versions of
6 this document appear to be missing or minimized in the
7 final. And there is concern in the disability community
8 that there is an opportunity for the kind of mischief we
9 were hoping to prevent by having a well-reasoned or well-
10 rounded document that would clearly spell out the duties,
11 responsibilities, and the corrective measures that would be
12 taken. Not all of these are expressed in this final
13 document.

14 MR. HIGGINS: Is that it?

15 MR. LONBERG: (Via teleconference) Yes.

16 MR. HIGGINS: Okay. Thank you, Jon. We
17 appreciate it.

18 What I might suggest that we do, since I don't see
19 any other comment forms up here, and I don't think there's
20 anyone else that has joined Jon on the telephone -- if I'm
21 mistaken, please speak up --

22 (No response)

23 MR. HIGGINS: Okay. I suggest what we might want
24 to do is again recess until three o'clock, and then we'll
25 reconvene at three o'clock. And hopefully, there may be

1 others to join us.

2 And, Jon, if you would --

3 MR. LONBERG: (Via teleconference) Yes.

4 MR. HIGGINS: -- if you would, as you did before,
5 want to call back in -- or were you holding the whole time?

6 MR. LONBERG: (Via teleconference) I actually was
7 holding.

8 MR. HIGGINS: Okay. Well, that's -- that's up to
9 you.

10 MR. LONBERG: (Via teleconference) Okay.

11 MR. HIGGINS: But we will make an effort, and we
12 will reconvene at three o'clock. So if you'd like to take a
13 break and --

14 MR. LONBERG: (Via teleconference) I will.

15 MR. HIGGINS: Okay. Then we'll see you back here
16 at three o'clock.

17 MR. LONBERG: (Via teleconference) Okay.

18 MR. HIGGINS: Okay.

19 (Thereupon, at 2:36 p.m., a recess was taken
20 until 3:00 p.m.)

21 MR. SMITH: (Not using microphone) Rod?

22 MR. HIGGINS: Yes.

23 MR. SMITH: (Not using microphone) Can you tell
24 us what happens next in terms of responding to our comments
25 and then where we go from there?

1 MR. HIGGINS: Yeah, I -- I can do that.
2 Basically, you know, this is a first for us, obviously.
3 We've not done this as much as other agencies. But as far
4 as I understand, the comment period will end on July 23rd,
5 and then we'll take the comments, review the comments. We
6 have to respond to each of the comments and then file that
7 with the Office of Administrative -- no
8 -- yeah, the Office of Administrative Law. We have a
9 liaison with an attorney over there that we're working with
10 to develop the actual final file that then goes to the
11 Secretary of State.

12 MR. SMITH: (Not using microphone) Will the
13 individual comments, like myself, get an individual reply
14 from you guys? Or -- how would that work?

15 MR. HIGGINS: I don't -- I'm not sure.

16 MR. SMITH: (Not using microphone) I suspect not.

17 MR. HIGGINS: I don't think -- I don't think so.

18 MR. SMITH: (Not using microphone) Yeah. How
19 about this that you post -- maybe you could -- I just
20 thought of it -- but on your Website, for the public?

21 MR. HIGGINS: We can certainly entertain that, you
22 know, option. And I'll have to go and check out, you know,
23 the administrative law process, just to make sure that we
24 have all our ducks in a row. But that's our foremost focus
25 right now, and to get that file all finalized, and, you

1 know, determining whether or not comments have become a --
2 substantial comments that would warrant another 15-day
3 continuation of comments, or another 45-day continuation of
4 comments. From what I understand, that's something that I'll
5 have to kind of confer with the attorney over at the Office
6 of Administrative Law about.

7 MR. MANKIN: (Not using microphone) (Inaudible)
8 and if you make substantial changes in response to comments,
9 then you may have to (inaudible).

10 MR. HIGGINS: Oh, yeah. Oh -- well, you could,
11 yes. That's -- well, it would be another public comment
12 period. And, of course, in that public comment period,
13 anyone who would like to have a hearing is certainly allowed
14 that opportunity. That's why we're here today.

15 So we did have -- I might just state that we did
16 have four public hearings during the development process of
17 the regulations, when we were in that phase, up and down the
18 state. But it was then -- so it was -- it was our thought
19 that we would just proceed with the regulations, noticed as
20 required, and then wait to see if anybody desired another
21 public hearing on it.

22 So that's -- Mark, I don't know if that's
23 answering your question.

24 MR. SMITH: (Not using microphone) I'll just have
25 to -- I'll just have to check the Website and see.

1 MR. HIGGINS: Yeah. Check the Website. That's
2 the only thing I could suggest.

3 MR. PARTANSKY: (Not using microphone) Yeah. I
4 know that (inaudible) OAL attorney checks to see whether
5 he's responded to comments, but whether us, the individual
6 commenters, receive that, (inaudible).

7 MR. SMITH: (Not using microphone) (Inaudible).

8 MR. HIGGINS: I don't know if Jon can pick up all
9 the conversations that are going -- Jon on the phone. So --

10 MR. LONBERG: (Via teleconference) Some of it is
11 difficult. I'm able to pick you up, but some of the others
12 are either speaking softly or the microphone isn't working.

13 MR. HIGGINS: Yeah. I'll try to repeat their
14 comments as they come up, John.

15 MR. MANKIN: (Not using microphone) But I do
16 remember that --

17 MR. LONBERG: (Via teleconference) I did have one
18 comment.

19 MR. HIGGINS: Okay. What is your comment, Jon?

20 MR. LONBERG: (Via teleconference) During the
21 time that the committees were working on the CASp program
22 outline and then, the following year, there were several
23 others who worked, say, as subject matter experts helping on
24 the testing process, we were assured repeatedly that those
25 of us that worked on both committees would be receiving a

1 nominal two-year certification to begin with. And it's been
2 brought to my attention recently that apparently somebody
3 has changed their mind, that, in fact, all those hours are
4 not going to be recognized and no one will be granted the
5 provisional two-year certification for the effort and the
6 work that we did put in. Is that correct?

7 MR. HIGGINS: There has not been a final decision
8 on that. I have brought that up with the executive office,
9 and a final decision -- I can tell you a final decision has
10 not been made yet. I think our focus right now is to get
11 through the regulation.

12 MR. LONBERG: (Via teleconference) I understand.
13 I just brought it up because it's been mentioned by like two
14 or three of us that did spend a great deal of time. We
15 thought it would be appropriate to stand by the assurances
16 that we received while we were doing that. And I realize it
17 doesn't have the high priority that getting this implemented
18 and underway does, but just put it in the mix when you have
19 the opportunity.

20 MR. HIGGINS: You bet. You bet. Thank you for
21 that reminder.

22 MR. LONBERG: (Via teleconference) Yeah.

23 MR. HIGGINS: Yes.

24 MR. PARTANSKY: (Not using microphone) That
25 sounds like there might have been an incentive, to use that

1 term, for this gentleman and lots of others who contributed
2 earlier. It almost sounds like grandfathering.

3 MR. HIGGINS: It, in essence, is grandfathering.

4 MR. PARTANSKY: (Not using microphone) I don't
5 see anything mentioning that in the regs.

6 MR. LONBERG: (Via teleconference) Yes.

7 MR. HIGGINS: Right.

8 MR. PARTANSKY: (Not using microphone) I mean, is
9 it there?

10 MR. HIGGINS: There is not an article or a section
11 about grandfathering in the regulations. But I know that we
12 discussed that possibility. Whether it be an
13 administrative, quote-unquote, grandfathering, that
14 certainly is still on the table. At least I -- I'm putting
15 it on -- continually putting it on the table. And until
16 there is some --

17 MR. LONBERG: (Via teleconference) Thank you for
18 keeping it in mind.

19 MR. HIGGINS: Yes.

20 MR. LONBERG: (Via teleconference) That's the end
21 of my comment.

22 MR. PARTANSKY: (Not using microphone)
23 (Inaudible)?

24 MR. HIGGINS: That's one of the things we're in
25 the process --

1 MR. SMITH: (Not using microphone) (Inaudible)
2 it's not something that's expected (inaudible).

3 MR. HIGGINS: Okay.

4 Any other comments? It's kind of whittled --
5 whittled down.

6 Ruthie? No.

7 Okay. Anybody have a suggestion on what we can
8 do, since we are open till four? We will be here till four,
9 available until four.

10 MS. RANDOLPH: (Not using microphone) Actually,
11 (inaudible) now --

12 MR. HIGGINS: Speak up.

13 MS. RANDOLPH: (Not using microphone) For the
14 sake of taping -- for the sake of taping, when somebody from
15 the floor speaks and we can't hear them, maybe you should
16 kind of come on and repeat whatever (inaudible) and mention
17 the names of the (inaudible) speakers.

18 MR. HIGGINS: Okay. Transcripts will be -- will
19 be taken from the tape, along with some notes that you've
20 taken, Elizabeth.

21 MS. RANDOLPH: (Not using microphone) Well, I was
22 just afraid that the tape couldn't get their comments --

23 MR. HIGGINS: Oh, yeah.

24 MS. RANDOLPH: (Not using microphone) -- when
25 they're too far from the phone.

1 MR. HIGGINS: Okay.

2 MS. RANDOLPH: (Not using microphone) If you can
3 repeat it, then it can go into the transcript (inaudible).

4 MR. HIGGINS: Okay. Well, I -- okay.

5 MS. RANDOLPH: (Not using microphone) If they
6 make any more comments.

7 MR. SMITH: We're waiting for the sands to run out
8 of the hourglass now, at this point.

9 MR. HIGGINS: Yeah. Well, there are -- there are
10 not any other -- there are no other comments received, so
11 all I can do is, we will be -- we'll leave the mike open
12 till four o'clock, and if anybody comes in, we'll certainly
13 -- and has a comment they wish to -- to give, we'll
14 certainly allow that.

15 And, as well, Jon, you're certainly welcome to
16 stay on the phone till four. I don't --

17 MR. LONBERG: (Via teleconference) Thank you.
18 It's been interesting to hear the background comments. Some
19 of those are just as informative as the formal comments.

20 MR. HIGGINS: Good. I'm glad.

21 MS. RANDOLPH: (Not using microphone) You mean
22 while the tape is still running.

23 MR. HIGGINS: Yeah. And the tape will still --
24 still be running. So I will turn -- turn off the mike. But
25 as soon as someone has another comment, then we'll open the

1 mike up again. The tape will be running, and the phone is
2 -- the phone line is still available.

3 By all means, I thank you, those who have stayed
4 around, for your comments.

5 (Pause)

6 (At 4:00 p.m., the public hearing was adjourned.)

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CERTIFICATE AND DECLARATION OF TRANSCRIBER

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I, Cynthia M. Judy, a duly designated transcriber,
do hereby declare and certify under penalty of perjury under
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the recording of Division of the State Architect's public
hearing held on June 13, 2007, in Sacramento, California,
regarding the Voluntary Certified Access Specialist (CAsp)
Program, and that the foregoing pages constitute a true,
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the best of my ability.

Dated: August 4, 2007

CYNTHIA M. JUDY, Transcriber

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